

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.23638 of 2018

and Crl.M.P.no.13277 of 2018

1.Deepansakthivel
2.Sivasamy
3.Nagamani
4.Hari Prakash

...Petitioners

-Vs-

Mrs.Pragnya

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to D.V.A.No.57 of 2016, pending on the file of the Judicial Magistrate No.VI, Coimbatore and to quash the same as illegal and incompetent by allowing the present criminal original petition.

For Petitioners: Mr.Deepan Uday

For Respondent : Mr.C.D.Johnson
for Mr.P.Suresh Babu

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in D.V.A.No.57 of 2016, filed by the respondent, on the file of the learned Judicial Magistrate No.VI, Coimbatore.

2. The 1st petitioner is the husband of the respondent and petitioners 2 to 4 are in-laws of the respondent herein. The marriage between the 1st petitioner and the respondent was solemnized on 06.07.2016. After marriage, the 1st petitioner and respondent lived in the matrimonial home for only few days. Thereafter, the 1st petitioner went abroad for his employment and promised to take her too. It is alleged by the petitioners that immediately after the 1st petitioner left to abroad, the respondent left the matrimonial home saying that the 1st petitioner is impotent. Thereafter, the respondent herself filed a petition in HMOP.No.1115 of 2016 before the learned Principal Judge, Family Court, Coimbatore and obtained an ex-parte order on 09.02.2017. After coming to know about the ex-parte order, the 1st petitioner filed a petition to set aside the order, which is still pending. Thereafter, the respondent filed a domestic

violence case in D.V.A.No.57 of 2016 implicating all her in-laws as parties before the learned Judicial Magistrate No.VI, Coimbatore. Under such circumstances, the 1st petitioner being the husband and the petitioners 2 to 4, who are the in-laws of the respondent prays to quash the proceedings in D.V.A.No.57 of 2016.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4. It is seen that the relief sought for by the respondent in the domestic violence case with regard to residential rights, compensation, etc., can be made and claimed as against her husband, who is already a party in that case. It is also seen that the respondent has obtained an ex-parte decree of divorce. The petitioners 2 to 4 herein are only in-laws of the respondent and they are living separately. As such, the protection order sought for by the respondent herein in the domestic violence case against the petitioners 2 to 4/in-laws, based on the allegations, cannot be maintained, in view of the fact that the allegations of harassment meted out by the petitioners against the respondent itself seems to be false. While that being so, there cannot be any act of any domestic violence as defined under Domestic Violence Act against these petitioners 2 to 4. In the absence of the same, the proceedings as against the petitioners 2 to 4 cannot be maintained and consequently, the petitioners 2 to 4 need not undergo the ordeal of facing a criminal trial.

5. In view of the above, this Court is inclined to quash the proceedings in D.V.A.No.57 of 2016, on the file of the learned Judicial Magistrate VI, Coimbatore, insofar as the petitioners 2 to 4 are concerned. On condition that A1/husband of the respondent is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) per month on or before 5th of every English Calendar month to the credit of D.V.A.No.57 of 2016, on the file of the learned Judicial Magistrate VI, Coimbatore, as ad-interim maintenance, starting from April 2019 onwards, without prejudice to both the parties, failing which this order shall stand automatically cancelled. On such deposit being made, the respondent is entitled to withdraw the same.

6. Insofar as A1, husband of the respondent is concerned, the prayer sought for in this petition is dismissed. However, the impugned proceedings in D.V.C.No.57 of 2016 is pending from the year 2016 onwards, it would be appropriate to direct the trial Court to complete the trial within a period of three months from the date of receipt of copy of this order. The husband of the respondent viz., Deepan Sakthivel, is directed to

appear before the trial Court on the next hearing date, failing which, the respondent is at liberty to approach this Court.

7. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

Rm

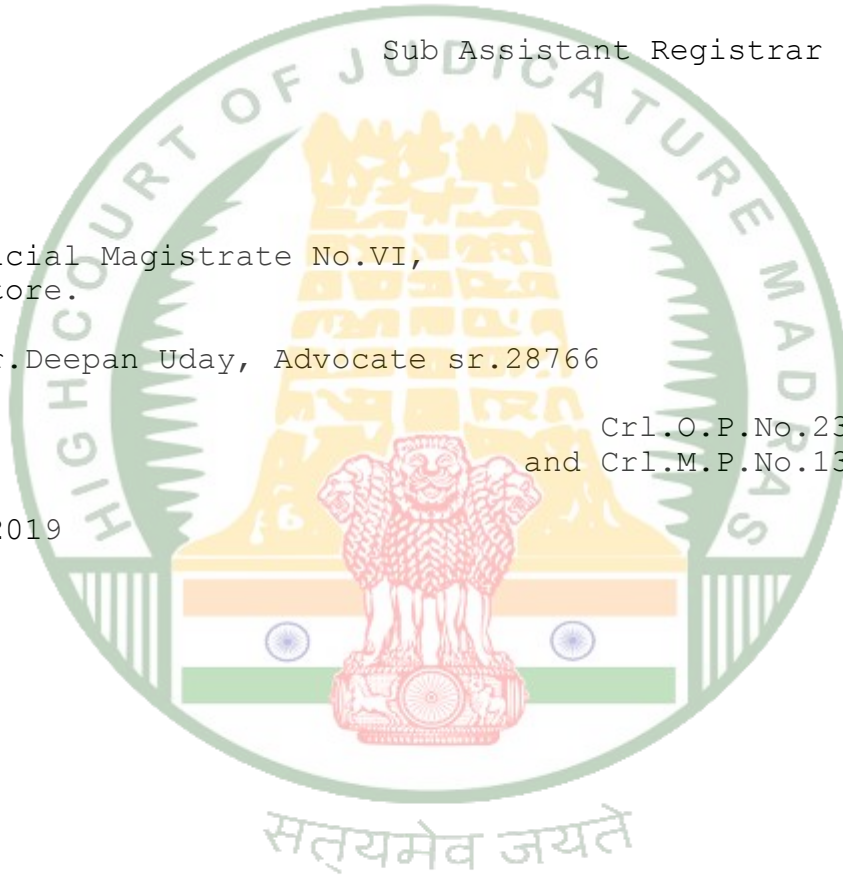
To

1.The Judicial Magistrate No.VI,
Coimbatore.

+1cc to Mr.Deepan Uday, Advocate sr.28766

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nr 29/05/2019



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